it then became plaintiff's duty to make an effort to save the property and prevent damage to it, and if in so doing, and while exercising such care for his safety as is reasonable and prudent under the circumstances, he is injured as a result of the negligence against the effect of which he is seeking to protect his property, the wrongdoer whose negligence is the occasion for the injury must respond for the damages. It is not just that the loss should fall on the innocent victim.

WATER AND WATER COURSES—DRIPPING FROM EAVES.—The eaves of defendant's building projected over a part of plaintiff's lot and threw the rain water falling on the roof of the building against the side wall of a structure on plaintiff's lot. In an action for damages and an injunction, *held,* that plaintiff was entitled to relief as the right of eaves-drip is an easement and not a right appurtenant to the ownership of land. *Shea* v. *Gavitt* (Conn. 1915) 94 Atl. 360.

Some courts adopt the view that a property owner is bound at his peril to prevent water accumulated on his premises by artificial means, such as the roofs of buildings, from flowing onto adjacent premises. *Martin* v. *Simpson,* 6 Allen (Mass.) 102; *Shipley* v. *Fifty Associates,* 106 Mass. 194; *Fitzpatrick* v. *Welch,* 174 Mass. 486; *Davis* v. *Smith,* 141 N. C. 108; *Huber* v. *Stark,* 124 Wis. 359; *Bellows* v. *Sackett,* 15 Barb. (N. Y.) 96; *Jutte* v. *Hughes,* 67 N. Y. 267; *Tanner* v. *Volentine,* 75 Ill. 624, *semble.* The doctrine of *Rylands* v. *Fletcher,* L. R. 3 H. L. 330, seems to have influenced this line of authority. *Shipley* v. *Fifty Associates,* supra; *Garland* v. *Towne,* 55 N. H. 55 at 58. Other cases while seeming to lean toward this rule of strict liability would not apply it till the owner had notice of the defective condition, *Copper* v. *Dolvin,* 68 Iowa 757, or fair means of knowledge, *Armstrong* v. *Luco,* 102 Cal. 272. In other jurisdictions an owner is not liable for damage caused by such water escaping if he has used ordinary care to prevent it. *Underwood* v. *Waldron,* 33 Mich. 232; *Barry* v. *Peterson,* 48 Mich. 263; *Philips* v. *Taylor,* 93 Minn. 28; *Miller* v. *Wilson,* 104 Ill. App. 556; *Bell* v. *Realty Co.,* 163 Mo. App. 361; *Garland* v. *Towne,* supra, *Hazeltine* v. *Edgmand,* 35 Kan. 202, *semble; Gould* v. *McKenna,* 86 Pa. St. 297, *semble.* These rules are applied not only to water cast from the roofs of buildings, but whenever the surface of the ground has been rendered impervious to water by any artificial means, as for example by a pavement, *Jutte* v. *Hughes,* supra, or a lumber pile. *Thoele* v. *Planing Mill Co.* (Mo. App.) 148 S. W. 413. It is immaterial whether the water goes in liquid form, or as snow, *Garland* v. *Towne,* supra; *Shipley* v. *Fifty Associates,* supra, or as ice, *Davis* v. *Niagara Power Co.,* 171 N. Y. 336. It is not necessary that the water be thrown from the structure onto plaintiff's land to found a liability; but if it falls on defendant's land a liability arises if it flows onto adjacent land in practically undiminished volume. *Bellows* v. *Sackett,* supra; *Connor* v. *Woodfill,* 126 Ind. 85. The authorities which consider the nature of the right of eaves-drip are quite uniform in considering it an easement and not a right appurtenant, as the defendant contended in the principal case. GODDARD, EASEMENTS (2d Amer.) p. 276; GALE, EASEMENTS (8th Eng.) p. 251; *Huber* v. *Stark,* supra. If this is true, throwing water on

the land of an adjoining owner without an easement to do so violates that owner's right of property without regard to the question of negligence. The liberal rule is not quite consistent with this theory. The fears of the New Hampshire court, *Garland* v. *Towne, supra,* that the enforcement of the strict rule would prevent the growth of cities does not seem justified in view of the small amount of litigation on this question.

WATERS—RIGHT OF RIPARIAN OWNERS TO DIVERT WATER.—Plaintiff and defendant are opposite riparian proprietors, each owning to the center of the stream. As a defense to an action to condemn its water rights defendant contends that it can develop water power by erecting a wing dam in its half of the river. *Held,* in awarding a new trial that the diversion of one-half the stream by such a wing dam would violate plaintiff's right to have the stream flow by its land in undiminished volume. *Blue Ridge Interurban Ry. Co.* v. *Hendersonville Light & Power Co.* (N. C. 1915), 86 S. E. 296.

The water rights of opposite riparian owners or occupiers arise by operation of law from the ownership or occupation of the banks, and the extent of the rights is not dependent on title to the bed of the stream. *Pratt* v. *Lamson,* 84 Mass. 275, 285; *Lyon* v. *Fishmongers Co.,* L. R. 1 App. Cas. 662, 673, 683; *Diedrich* v. *Northwestern Union Ry. Co.,* 42 Wis. 248, 261; but see *Wilson* v. *Harrisburg,* 109 Me. 207. Such rights do not give title to the water or any portion of it, but give each owner the usufruct of the whole stream flowing undivided and indivisible. *Webb* v. *Portland Mfg. Co.,* 3 Sumner 189, 198 *et seq; Blanchard* v. *Baker,* 8 Me. 253. The stream cannot be severed into parts for its use. *Plumleigh* v. *Dawson,* 6 Ill. 550; *Vanderbergh* v. *Van Bergen,* 13 Johns. 212. Such an owner is under an obligation not to interfere with the flow of the stream in any material way. 3 KENT, COMM. 439 *et seq.* The general rule governing the use of water for extraordinary purposes by riparian owners is that such use must be reasonable and not an interference with the rights of other riparian proprietors. *White* v. *East Lake Land Co.,* 96 Ga. 415; *Gahlen* v. *Knord,* 101 Iowa 700; *Elliot* v. *Fitchburg R. R. Co.,* 64 Mass. 191; *Garwood* v. *N. Y. Cent. & Hud. R. R. R. Co.,* 83 N. Y. 400; *Tennessee Coal, Iron, & R. R. Co.* v. *Hamilton,* 100 Ala. 252. In the principal case one opinion considers it a question for the jury whether the diversion caused by a wing dam would be an unreasonable use of riparian rights. It is the general rule that it is a question of fact for the jury whether a given exercise of riparian rights is reasonable. *Batavia Mfg. Co.* v. *Newton Wagon Co.,* 91 Ill. 230; *Lowrie* v. *Silsby,* 76 Vt. 240; *Snow* v. *Parsons,* 28 Vt. 459; *Pool* v. *Lewis,* 41 Ga. 162; *Hetrich* v. *Deachler,* 6 Pa. St. 32. In certain cases, however, if a use is clearly excessive or clearly outside riparian rights it may be declared unreasonable as a matter of law. *Salem Mills* v. *Lord,* 42 Ore. 82; *Higgins* v. *Flemington Water Co.,* 36 N. J. Eq. 538. This seems to be the theory of the majority opinion in the principal case.

WILLS—REVOCATION BY MARRIAGE.—Where a man made a will subsequent to a separation agreement between himself and his wife, and a few months later, after a decree of divorce had been granted, the same parties by mutual